



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Cleta Mitchell, Esq.
Foley & Lardner LLP
Washington Harbour
3000 K Street, NW, Suite 500
Washington, DC 20007-5143

JAN 31 2008

RE: MUR 5496
Lawrence David Huffman
Huffman for Congress and David Blanton,
in his official capacity as treasurer

Dear Ms. Mitchell:

On August 2, 2007, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 2 U.S.C. §§ 434(b), 441a(f) and 11 C.F.R. § 104.3(d), provisions of the Federal Election Campaign Act of 1971, as amended and the Commission's regulations. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Ana J. Peña-Wallace".

Ana J. Peña-Wallace
Attorney

Enclosure
Conciliation Agreement

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)

4) MUR 5496

5 Lawrence David Huffman)
6 Huffman for Congress and)
7 David Blanton,¹ in his official)
8 capacity as treasurer)
9)

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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11 **CONCILIATION AGREEMENT**

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13 This matter was initiated through voluntary self-reporting by Huffman for Congress and

14 David Blanton, in his official capacity as treasurer, Lawrence David Huffman and Dean Proctor,

15 and by signed, sworn, and notarized complaints by Max W. Baker, Sandy Lyons, Patrick

16 McHenry and George Moretz. The Federal Election Commission ("the Commission") found

17 reason to believe that Lawrence David Huffman knowingly and willfully violated 2 U.S.C.

18 § 441a(f), and that Huffman for Congress and David Blanton, in his official capacity as treasurer,

19 (together "Respondents"), violated 2 U.S.C. §§ 434(b) and 441a(f), and 11 C.F.R. § 104.3(d).

20 Reason to believe is a preliminary finding and a statutory prerequisite to an investigation as to

21 whether there is probable cause to believe a violation occurred. The Commission has made no

22 finding that there is probable cause to believe that Respondents' violations in this matter were

23 knowing and willful.

24 NOW, THEREFORE, the Commission and the Respondents, having participated in

25 informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree

26 as follows:

27 I. The Commission has jurisdiction over the Respondents and the subject matter of this

¹ Michael Sherill was the treasurer for Huffman for Congress from January 15, 2004, until October 7, 2004, at the time the relevant activity took place.

proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.

§ 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Huffman for Congress ("the Committee") is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Lawrence David Huffman ("the Candidate") was a candidate for the U.S. House of Representatives from the 10th District of North Carolina during the 2004 primary election.

3. Dean Proctor served as the finance chairman for the Committee during the 2004 election cycle.

4. The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits a candidate from accepting any contribution in excess of the limits. See 2 U.S.C.

§ 441a(f). During the 2004 election cycle the contribution limit was \$2,000 for each election. 2 U.S.C. § 441a(a)(1) .

5. The Act requires a treasurer and political committee to properly report the receipt of all loans indicating whether the candidate used personal funds, borrowed money from a lending institution, or obtained funds from another source. 2 U.S.C. § 434(b); 11 C.F.R. § 104.3(a) and (d).

6. Under the Act, the term "contribution" includes a loan made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A).

7. Any candidate who receives a contribution or loan for use in connection with the campaign of such candidate for election shall be considered as having received the contribution or loan as an agent of the authorized committee of such candidate. 2 U.S.C. § 432(e)(2).

EXCESSIVE CONTRIBUTION

8. On June 17, 2004, the Candidate accepted a \$100,000 check from Dean Proctor for use in his campaign. The Candidate contends that he was unaware at that time that such a transaction was prohibited by the Act

9. On July 19, 2004 the Candidate refunded to Mr. Proctor the full \$100,000 excessive contribution.

10. The Candidate contends that on July 17, 2004 Mr. Proctor learned from a friend that the transaction described in Paragraph IV.8 was a violation of the Act. On or about the same date, the Candidate undertook steps to reverse the transaction and voluntarily self-reported the violation to the Federal Election Commission shortly thereafter.

MISREPORTING

11. The Candidate obtained a loan in the amount of \$100,000 from Peoples Bank on June 30, 2004 for use in his campaign.

12. The Committee failed to identify Peoples Bank as the original source of the loan

1 in its original 2004 Pre-Runoff Report to the Commission.

2 13. The Candidate obtained a \$150,000 line of credit from Branch Banking and Trust
3 Company on July 19, 2004 and used real estate that he owned as collateral.

4 14. The Committee failed to disclose the collateral used for the line of credit in its
5 original 2004 October Quarterly Report to the Commission.

6 15. The Committee corrected these errors in August 2005 through amendments to its
7 2004 Pre-Runoff and 2004 October Quarterly Reports to the Commission.

8 **V. Violations**

9 1. Lawrence David Huffman and the Committee violated 2 U.S.C. § 441a(f) by
10 accepting an excessive contribution.

11 2. The Committee violated 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3(d) by
12 filing inaccurate 2004 Pre-Runoff and 2004 October Quarterly Reports with the
13 Commission.

14 **VI. Respondents will cease and desist from violating 2 U.S.C. §§ 434(b) and 441a(f),**
15 **and 11 C.F.R. § 104.3(d).**

16 **VII. Respondents will pay a civil penalty to the Federal Election Commission in the**
17 **amount of Thirty Thousand Dollars (\$30,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).**

18 **VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C.**
19 **§ 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance**
20 **with this agreement. If the Commission believes that this agreement or any requirement thereof**

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MUR 5496

Conciliation Agreement

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has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

X. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Thomaseenia P. Duncan
General Counsel

BY:

Ann Marie Terzaken by KE
Ann Marie Terzaken
Acting Associate General Counsel
for Enforcement

1-30-08
Date

FOR THE RESPONDENTS:

Cleta Mitchell
Cleta Mitchell, Esq.
Counsel for Respondents

July 16, 2007
Date